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PATENT  
Attorney Docket No. 500991

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Mary Swaab

Application No.: 09/714,318

Filed: November 16, 2000

For: METHOD FOR BLENDING AND  
FABRICATING PERSONALIZED  
LIPSTICK

Group Art Unit: 1732

Examiner: Stefan Staicovici

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SEP 04 2003  
TC 1700

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Pursuant to 37 CFR 1.97 and 1.98, the references listed on the enclosed Form PTO-1449 and/or Substitute Form PTO-1449 ("Form 1449") are submitted for consideration by the Examiner in the examination of the above-identified patent application.

The full consideration of the references in their entirety by the Examiner is respectfully requested and encouraged. Also, it is respectfully requested that the references be entered into the record of the present application and that the Examiner place his or her initials in the appropriate area on the enclosed Form 1449, thereby indicating the Examiner's consideration of each of the references.

The submission of the references listed on the Form 1449 is for the purpose of providing a complete record and is not a concession that the references listed thereon are prior art to the invention claimed in the patent application. The right is expressly reserved to establish an invention date earlier than the above-identified filing date in order to remove any reference submitted herewith as prior art should it be deemed appropriate to do so.

Further, the submission of the references is not to be taken as a concession that any reference represents art that is relevant or analogous to the claimed invention. Accordingly, the right to argue that any reference is not properly within the scope of prior art relevant to an examination of the claims in the above-identified application is also expressly reserved.

The Supplemental Information Disclosure Statement is being filed:

- ☐ **within** any one of the following time periods: (a) within three months of the filing date of a national application other than a continued prosecution application under 37 CFR 1.53(d); (b) within three months of the date of entry of the national stage as set forth in 37 CFR 1.491 of an international application; (c) before the mailing date

of a first Office Action on the merits; or (d) before the mailing of a first Office Action after the filing of a request for continued examination under 37 CFR 1.114.

- ☒ **after** (a), (b), (c) or (d) above, but before the mailing date of a final action under 37 CFR 1.113, a Notice of Allowance under 37 CFR 1.311, or an action that otherwise closes prosecution in the application, and includes *one* of:

☒ the Statement under 37 CFR 1.97(e) (see "Statement under 37 CFR 1.97(e)" below).

*or*

☐ the fee of \$180 set forth in 37 CFR 1.17(p) (see "Fees" below).

- ☐ **after** the mailing date of a final action under 37 CFR 1.113 or a Notice of Allowance under 37 CFR 1.311, or an action that otherwise closes prosecution in the application, and on or before payment of the issue fee, and includes the Statement under 37 CFR 1.97(e) (see "Statement under 37 CFR 1.97(e)" below), and the fee of \$180 as set forth in 37 CFR 1.17(p) (see "Fees" below).

- ☐ **after** the mailing date of a Notice of Allowance under 37 CFR 1.311, and on or before payment of the issue fee, and **within** thirty days of receiving each item of information contained in the Information Disclosure Statement, and includes the Statement under 37 CFR 1.704(d) (see "Statement under 37 CFR 1.704(d)" below), and the fee of \$180 as set forth in 37 CFR 1.17(p) (see "Fees" below).

NOTE: This is for original applications except applications for a design patent, filed on or after May 29, 2000, wherein a paper containing only an Information Disclosure Statement in compliance with 37 CFR 1.97 and 1.98 is being filed.

### Copies of the References

- ☒ Copies of the references listed on the enclosed Form 1449 required by 37 CFR 1.98(a)(2)(i) are enclosed herewith. Attached to each reference not in the English language is a concise explanation of the relevance pursuant to 37 CFR 1.98(a)(3). An English-language equivalent/patent, or an English-language abstract, or an English-language version of the search report or action by a foreign patent office in a counterpart foreign application indicating the degree of relevance found by the foreign office is being submitted in lieu of a concise explanation of the relevance pursuant to 37 CFR 1.98(a)(3).

- ☐ A copy of the foreign search report is enclosed herewith.

- ☐ The references listed on the enclosed Form 1449 were previously identified in the parent application(s) of the present application, and copies of the references were furnished at that time. Accordingly, additional copies of the references are not submitted herewith, so as not to burden the file with duplicate copies of references. The Examiner is respectfully requested to carefully review the references in accordance with the requirements set out in the Manual of Patent Examining Procedure. In accordance with 37 CFR 1.98(d), the details of the parent application(s) relied upon for an earlier filing date under 35 USC 120 in which copies of the references were previously furnished are set out below:

In re Appln. of: Mary Swaab  
Application No.: 09/714,318

U.S. APPLICATIONS		Status ( <i>check one</i> )		
U.S. APPLICATIONS	U.S. FILING DATE	PATENTED	PENDING	ABANDONED
1.				
2.				
3.				

**Statement under 37 CFR 1.97(e)**

- ☐ The **undersigned** hereby states that each item of information contained in the Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign patent application not more than three months prior to the filing of the Information Disclosure Statement.
- ☒ The **undersigned** hereby states that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign patent application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in the Information Disclosure Statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

**Statement under 37 CFR 1.704(d)**

- ☐ The **undersigned** hereby states that each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement.

**Fees**

- ☒ **No fee** is owed by the applicant(s).
- ☐ The **IDS Fee of \$180** under 37 CFR 1.17(p) is enclosed herewith.

**Method of Payment of Fees**

- ☐ Attached is a check in the amount of \$ .
- ☐ Charge Deposit Account No. 12-1216 in the amount of \$ . (A duplicate copy of this communication is enclosed for that purpose.)

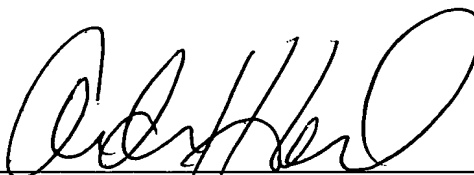
**Authorization to Charge Additional Fees**

- ☒ If any additional fees are owed in connection with this communication, please charge Deposit Account No. 12-1216. (A duplicate copy of this communication is enclosed for that purpose.)

In re Appln. of: Mary Swaab  
Application No.: 09/714,318

**Instructions as to Overpayment**

- ☒ Credit Account No. 12-1216.  
☐ Refund



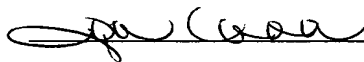
Andrew J. Heinisch, Reg. No. 43666  
LEYDIG, VOIT & MAYER, LTD.  
6815 Weaver Road, Suite 300  
Rockford, Illinois 61114-8018  
(815) 963-7661 (telephone)  
(815) 963-7664 (facsimile)

Date: August 28, 2003

CERTIFICATE OF MAILING

I hereby certify that this SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT (along with any documents referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop \_\_\_\_, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 8-29-03





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**CONCISE STATEMENT OF RELEVANCY OF DOCUMENTS SUBMITTED IN LIEU OF  
TRANSLATIONS UNDER MPEP § 609 (37 CFR § 1.98)**

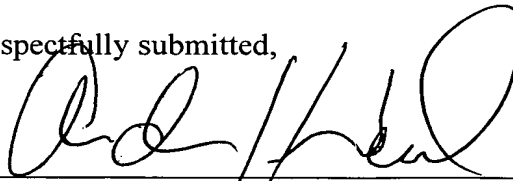
Applicant submits herewith a number of what appear to be German language publication documents (marked with exhibit reference characters) that Applicant has received from a competitor regarding Applicant's issued patent, U.S. Patent No. 6,402,120, which is a parent to this application. Based on the limited information available and without full translations available, Applicant's general understanding of these documents is that they appear to be catalogues for individual raw materials or tools used in making lipstick products or cosmetic recipe books. Applicant questions the relevancy of these documents to the patentability of the invention as claimed, but is submitting these apparent German publication documents to the U.S. Patent & Trademark Office out of an abundance of caution for the Patent Examiner's independent review.

Also out of an abundance of caution, portions of the accompanying letter sent by this competitor alleging or asserting to translate portions of these documents is enclosed (the exhibit reference characters correspond to those listed in this letter). Applicant has not translated these documents nor obtained translated versions of these documents. As a result, Applicant does not vouch for the authenticity or accuracy of any asserted translation in the attached competitor's letter and reserves the right to obtain translations of these documents at some point in the future. Argumentative portions of the letter and other portions that do not appear to translate these documents have been excerpted out. Applicant has reviewed the

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Application No. 09/714,318

rules concerning submission of foreign documents under MPEP §609 and 37 C.F.R. § 1.98 and particularly, § 1.98(a)(3)(ii) concerning the submission of partial translations, and believes it has fully complied with the rules as to the way Applicant has made this information disclosure statement submission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew J. Heinisch', written over a horizontal line.

Andrew J. Heinisch, Registration No. 43666  
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6815 Weaver Road, Suite 300  
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(815) 963-7664 (facsimile)

Date: August 29, 2003